

REMARKS

Rejections under 35 U.S.C. § 103

The four independent claims (1, 13, 25, and 33) have been amended to facilitate prosecution by claiming two specific types of player-funded wagering systems usable in relationship to other elements of the present invention, neither of which are taught or shown in the cited prior art. Applicant makes these changes without disclaimer of claimable subject matter outside of these two player-funded wagering systems, specifically reserving the right to pursue additional claimable subject matter in future prosecution.

Applicant also made changes to the four independent claims to clean up wording and removing some potentially confusing language, making the claims clearer.

Applicant has limited the presently pending claims to two specific player-funded wagering systems. The first is pari-mutuel wagering (note: the qualifier “player-funded” or “player-funding” for pari-mutuel pools has been deleted because it is redundant, since by definition pari-mutuel betting is player funded). The second is player-funded progressive pools. The cited prior art does not disclose, individually or in combination, the presently claimed invention using these two player funded wagering systems.

The Examiner asserts that US Patent 5,102,140 to Vincent (“Vincent”) discloses pari-mutuel play (OA, first paragraph on page 3). This is a mistake. Vincent does not discuss pari-mutuel play of any kind. Vincent only discusses (in passing in a single sentence and without explanation) that the coins collected in Vincent’s video-tape machine could be used to help fund a “hole-in-one” prize (1:21-27). Vincent only describes the prize once that the Applicant could find (3:49-51), referring to a static prize for a hole-in-one. No disclosure is made of a wagering system of any kind, specifically no mention is made of either a pari-mutuel wagering system or a player-funded progressive pool. Vincent’s

disclosure is about using video tape to record the results of a golf game or event.

In addition, Applicant could find no teaching to combine Vincent with Helderman. In the office action, the combination is asserted as obvious without any supporting documentation (OA, first paragraph on page 3, "It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the pari-mutuel prize feature of Vincent with the gold game of Helderman ..."). Applicant respectfully traverses the Examiner's statement that this would be obvious to combine the references. According to MPEP § 2144.03, "any rejections based on assertions that a fact is well-known or common knowledge in the art without documentary evidence to support the Examiner's conclusion should be judiciously applied...It is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection is based." Thus, the Applicant respectfully requests evidentiary support for combining the static hole-in-one prize in Vincent with Helderman.

Since neither Helderman nor Vincent disclose the pari-mutuel wagering system or progressive pool wagering claimed in the pending claim set, the rejection is respectfully traversed. In addition to there being elements and functional relationships between elements of the presently pending claims not disclosed in either Helderman or Vincent, there is no evidence for a teaching to combine the two references.

As each dependent claim inherits the limitations of the independent claim from which it eventually depends, for the same reasons discussed above the presently pending dependent claims are also in condition for allowance.

Because Applicant believes the pending claims are in condition for allowance, other issues are not reached (for example does US Patent 5,949,679 to Born show applicant's claim to using a WAN such as the WWW to allow remote players to watch games progress, and is there a teaching to combine the needed three references).

CONCLUSION

Applicant has made a sincere and bona fide effort to clarify the issues before the Examiner and to place this case in condition for allowance. In view of the foregoing discussions, it is believed that the differences between the claimed invention and the prior art are such that the claimed invention is patentably distinct over the prior art. Therefore, reconsideration and allowance of the presently pending claims is believed to be in order, and an early Notice of Allowance to this effect is respectfully requested. If the Examiner should have any questions concerning the foregoing, the Examiner is invited to telephone the undersigned attorney at (775) 336-2556. The undersigned can normally be reached Monday through Friday from about 8:00 AM to 5:00 PM Pacific Standard Time.

Respectfully submitted,

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